

Department of Planning and Budget

2007 Fiscal Impact Statement

1. **Bill Number:** HB 2684

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Jeffrey M. Frederick

3. **Committee:** Health, Welfare and Institutions

4. **Title:** Revised Uniform Anatomical Gift Act (UAGA)

5. **Summary/Purpose:** Replaces current provisions in the Virginia Code, which was adopted, in substantial part, by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in July 2006. The revised Act addresses each step in the donation process and establishes rules of decision to resolve uncertainties and ambiguities that have arisen under prior versions of the UAGA.

The revised Act addresses each step in the donation process and establishes rules of decision to resolve uncertainties and ambiguities that have arisen under prior versions of the UAGA. It ensures that if an individual wishes to make an anatomical gift or to refuse to make such a gift, those wishes will be respected without exception. It preserves the right of other persons to make an anatomical gift if the decedent did not make a gift during life, and clarifies how, to whom, and for what purpose, the gift may be made. The Act facilitates donation by expanding the list of persons who can make an anatomical gift and by establishing the priority and circumstances under which such persons may make a gift, including when they will be considered available to exercise their right to consent to, or refuse, an anatomical gift. There are numerous default rules for the interpretation of a document of gift that lacks specificity. The Act affirms that procurement organizations will have access to documents of gift in donor registries, medical records, and DMV records. It also provides that taking measures to preserve the viability of organs, tissues and eyes for their donative purpose is not inconsistent with a health-care directive requesting the withholding or withdrawal of life support systems. Other provisions address the relationship between the medical examiner and procurement organizations to ensure, to the maximum extent possible, that anatomical gifts are made from decedents under the jurisdiction of the medical examiner. The revised Act creates a new crime of falsification of a gift document and continues to prohibit the sale of bodies or body parts and increases the criminal penalty from a Class 6 to a Class 4 felony.

6. **No Fiscal Impact**

7. **Budget amendment necessary:** No

8. Fiscal implications: The Act would increase the criminal penalty from a Class 6 to a Class 4 felony; there would be an increase in the number of offenders imprisoned in the Commonwealth. Under the proposed § 32.1-291.16, it will be a Class 4 felony to purchase or sell a body part for transplantation, research, therapy or education if removal is intended to occur after the individual's death. This section replaces § 32.1-289.1, which defines similar behavior as a Class 6 felony. Under proposed § 32.1-291.17, a person who intentionally falsifies, forges, conceals, defaces or obliterates a document relating to an anatomical gift in order to obtain financial gain is guilty of a Class 4 felony. Currently, forging a document for financial gain is a Class 4 felony under § 18.2-172, obtaining \$200 or more by false pretenses is also currently a Class 4 felony under § 18.2-172, and obtaining a signature by false pretenses is a felony punishable by imprisonment.

There is not enough information available to reliably estimate how many additional inmates in prison could result from this proposal. Any increase in the prison population will increase costs to the state. The state's share of these costs on a per prisoner, per day basis varies from locality to locality.

9. Specific agency or political subdivisions affected: Virginia Department of Health and Department of Corrections

10. Technical amendment necessary: No

11. Other comments: Companion bill to SB 918.

Date: 1/17/2007

Document: HB2684.doc

cc: Secretary of Health and Human Resources